

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Judith Le	Team: Squad #2	CCRB Case #: 201710373	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 12/09/2017 3:35 AM	Location of Incident: West 211th Street and 10th Avenue; West 211th Street and Sherman Avenue; 34th Precinct stationhouse	Precinct: 34	18 Mo. SOL 6/9/2019	EO SOL 6/9/2019	
Date/Time CV Reported Fri, 12/15/2017 9:56 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 12/15/2017 9:56 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jose Peralta	12313	922956	034 PCT
2. SGT Hekmatulla Mukhtarzada	03383	949517	034 PCT
3. POM Giancarlo Alia	02843	927847	034 PCT
4. POM Daniel Martinucci	20408	955140	034 PCT
5. CPT John Oconnell	00000	937204	034 PCT
6. SGT Ashleigh Sofia	5468	941249	034 PCT
7. POM Nicholas Kane	06822	948057	034 PCT
8. POM Kevin McCormack	29463	955159	034 PCT
9. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kevin Santiago	07944	963745	034 PCT
2. POF Coree Brigantty	01726	963413	034 PCT
3. POM Johnny Diaz	31661	915603	034 PCT
4. POM Robert King	05446	952934	034 PCT
5. POM Michael Levy	29982	954059	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jose Peralta	Discourtesy: At West 211th Street and Sherman Avenue in Manhattan, Police Officer Jose Peralta spoke discourteously to § 87(2)(b)	
B.POM Jose Peralta	Discourtesy: At West 211th Street and Sherman Avenue in Manhattan, Police Officer Jose Peralta spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
C.POM Jose Peralta	Force: At West 211th Street and Sherman Avenue in Manhattan, Police Officer Jose Peralta used physical force against § 87(2)(b)	
D.POM Jose Peralta	Abuse: At West 211th Street and Sherman Avenue in Manhattan, Police Officer Jose Peralta threatened § 87(2)(b) with the use of force.	
E.POM Jose Peralta	Force: At West 211th Street and Sherman Avenue in Manhattan, Police Officer Jose Peralta used physical force against § 87(2)(b)	
F.POM Jose Peralta	Force: At West 211th Street and Sherman Avenue in Manhattan, Police Officer Jose Peralta used physical force against § 87(2)(b)	
G.CPT John Oconnell	Force: At West 211th Street and Sherman Avenue in Manhattan, Captain John O'Connell used physical force against § 87(2)(b)	
H.POM Daniel Martinucci	Force: At West 211th Street and 10th Avenue in Manhattan, Police Officer Daniel Martinucci used physical force against § 87(2)(b)	
I.POM Giancarlo Alia	Force: At West 211th Street and 10th Avenue in Manhattan, Police Officer Giancarlo Alia used pepper spray against § 87(2)(b)	
J.POM Giancarlo Alia	Force: At West 211th Street and 10th Avenue in Manhattan, Police Officer Giancarlo Alia restricted § 87(2)(b)'s breathing.	
K. Officers	Force: At West 211th Street and 10th Avenue in Manhattan, officers used physical force against § 87(2)(b)	
L. Officers	Force: At West 211th Street and 10th Avenue in Manhattan, officers used physical force against § 87(2)(b)	
M. Officers	Discourtesy: At West 211th Street and 10th Avenue in Manhattan, officers spoke discourteously to § 87(2)(b)	
N.SGT Hekmatulla Mukhtarzada	Discourtesy: At the 34th Precinct stationhouse, Sergeant Hekmatulla Mukhtarzada spoke discourteously to § 87(2)(b)	
O.SGT Hekmatulla Mukhtarzada	Abuse: At the 34th Precinct stationhouse, Sergeant Hekmatulla Mukhtarzada threatened to get § 87(2)(b) fired.	
P.POM Jose Peralta	Discourtesy: At the 34th Precinct stationhouse, Police Officer Jose Peralta spoke discourteously to § 87(2)(b)	
Q.POM Jose Peralta	Discourtesy: At the 34th Precinct stationhouse, Police Officer Jose Peralta spoke discourteously to § 87(2)(b)	
R.POM Jose Peralta	Abuse: At the 34th Precinct stationhouse, Police Officer Jose Peralta threatened to arrest § 87(2)(b)	
S.POM Jose Peralta	Abuse: At the 34th Precinct stationhouse, Police Officer Jose Peralta threatened to arrest § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		

Case Summary

On December 14, 2017, § 87(2)(b) filed the following complaint via the CCRB website.

On December 9, 2017, at approximately 3:35 a.m., Police Officer Giancarlo Alia and Police Officer Malcolm Jenkins of the 34th Precinct conducted a community visit at Playroom NYC (Playroom), a nightclub located at 3964 10th Avenue in Manhattan. Shortly thereafter, a fight broke out, and in response, Playroom's bouncers pepper-sprayed the crowd—including both officers. Police Officer Alia called for assistance, and numerous officers from the 34th Precinct, including: Police Officer Joe Peralta, Police Officer Coree Brigganty, Police Officer Santiago, Sergeant Hekmatulla Mukhtarzada, Police Officer Daniel Martinucci, Captain John O'Connell, and plainclothes officers from the 34th Precinct Anti-Crime team, Sergeant Ashleigh Sofia, Police Officer Johnny Diaz, Police Officer Nicholas Kane, Police Officer Michael Levy, Police Officer Kevin McCormack and Police Officer Robert King, all from the 34th Precinct, responded.

At around 4:00 a.m., § 87(2)(b) and other unidentified friends were walking from Playroom to their cars when they saw another group who had also been in Playroom. The two groups began arguing. Police Officer Peralta ran over with Police Officer Santiago and Police Officer Brigganty and allegedly told § 87(2)(b) to, "Get the fuck out of here" (**Allegation A: Discourtesy**, § 87(2)(g)). Police Officer Peralta then allegedly pushed § 87(2)(b) as he told him to, "Get the fuck out the way" (**Allegations B: Discourtesy**, § 87(2)(g) and **Allegation C: Force**, § 87(2)(g)). Police Officer Peralta asked the groups to disperse, but they did not comply, so he conducted a Taser spark test (**Allegation D: Abuse of Authority**, § 87(2)(g)). A struggle ensued between § 87(2)(b) and Police Officer Peralta (**Allegation E: Force**, § 87(2)(g)). As Police Officer Peralta was attempting to place § 87(2)(b) under arrest, § 87(2)(b) stepped between them. Police Officer Peralta punched § 87(2)(b) in the face (**Allegation F: Force**, § 87(2)(g)), and Captain O'Connell pulled § 87(2)(b) to the ground (**Allegation G: Force**, § 87(2)(g)) where he was handcuffed. During this time, § 87(2)(b) began running down Sherman Avenue. He was chased by approximately five plainclothes and uniformed officers. Police Officer Martinucci allegedly tackled § 87(2)(b) to the ground (**Allegation H: Force**, § 87(2)(g)). After being placed in handcuffs, Police Officer Alia allegedly pepper sprayed § 87(2)(b) while his face was down, restricting his breathing (**Allegations I and J: Force**, § 87(2)(g)). Officers then kicked and punched § 87(2)(b) in the arms, legs, and face (**Allegation K: Force**, § 87(2)(g)) before lifting him and taking him to the car. § 87(2)(b) also noted that after § 87(2)(b) was pulled to the ground, he went to try and grab him, but officers pushed him and told him to, "Get the fuck back" (**Allegation L: Force**, § 87(2)(g) and **Allegation M: Discourtesy**, § 87(2)(g)).

After § 87(2)(b) was taken to the stationhouse, Sergeant Mukhtarzada approached him in the holding cells and allegedly told him that he would "never fucking work for § 87(2)(b) again" (**Allegation N: Discourtesy**, § 87(2)(g) and **Allegation O: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) also went to the stationhouse to try and find out more information about § 87(2)(b). Police Officer Peralta allegedly told them to "get the fuck out" or else they would also be arrested (**Allegations P and Q: Discourtesy**, § 87(2)(g) and **Allegations R and S: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(g)). § 87(4-b), § 87(2)(g)

§ 87(2)(b) was subsequently arrested and charged with assault in the second degree and obstruction of governmental administration (**Board Review #1**). § 87(2)(b) was subsequently arrested and charged with assault in the second degree, resisting arrest, and obstruction of governmental administration (**Board Review #2**).

Video footage was provided from MCM Garage, 292 Sherman Avenue in Manhattan on December 9, 2017. The videos are dated and time-stamped, but do not contain audio. The full videos are attached to IA #181 (**Board Review #3**) and are transcribed in IA#198 (**Board Review #4**). Relevant portions are embedded in the relevant sections below.

Findings and Recommendations

Allegation (A) Discourtesy: At West 211th Street and Sherman Avenue in Manhattan, Police Officer Jose Peralta spoke discourteously to § 87(2)(b)

Allegation (B) Discourtesy: At West 211th Street and Sherman Avenue in Manhattan, Police Officer Jose Peralta spoke discourteously to § 87(2)(b)

Allegation (C) Force: At West 211th Street and Sherman Avenue in Manhattan, Police Officer Jose Peralta used physical force against § 87(2)(b)

On December 22, 2017, § 87(2)(b) provided a phone statement (**Board Review #8**) and on December 29, 2017, he was interviewed at the CCRB. On December 29, 2017, § 87(2)(b) was interviewed at the CCRB. On January 29, 2018, § 87(2)(b) was interviewed at the CCRB. On January 30, 2018, § 87(2)(b) provided a phone statement (**Board Review #31**) and on April 5, 2018, he was interviewed at the CCRB. On January 31, 2018, § 87(2)(b) provided a phone statement. On March 19, 2018, Sgt. Mukhtarzada was interviewed at the CCRB. On April 12, 2018, Police Officer Santiago was interviewed at the CCRB. On May 29, 2018, Police Officer Brigganty was interviewed at the CCRB. On May 30, 2018, Police Officer Martinucci was interviewed at the CCRB. On May 31, 2018, Police Officer Peralta was interviewed at the CCRB. On June 7, 2018, Sergeant Sofia was interviewed at the CCRB. On June 14, 2018, Police Officer Kane was interviewed at the CCRB. On June 21, 2018, Police Officer King was interviewed at the CCRB. On June 29, 2018, Police Officer Levy was interviewed at the CCRB. On July 10, 2018, Captain O'Connell was interviewed at the CCRB. On July 11, 2018, Police Officer McCormack was interviewed at the CCRB. On August 7, 2018, Police Officer Alia was interviewed at the CCRB.

It is undisputed that on December 9, 2017, bouncers at Playroom NYC pepper sprayed Police Officer Alia, Police Officer Jenkins, and many of the club's attendees. Several 911 calls were made for officer assistance, resulting in a large police presence. Shortly thereafter, § 87(2)(b) and his friends were walking to their car when they saw a group of individuals who had been pepper sprayed, pouring milk over their faces at the intersection of West 211th Street and Sherman Avenue in Manhattan. Words were exchanged, and the two groups began to argue. § 87(2)(b) was attempting to restrain his friend, § 87(2)(b) from fighting the individuals, when Police Officer Peralta, Police Officer Santiago, and Police Officer Brigganty approached them.

§ 87(2)(b) stated that after exiting Playroom, he saw a group of individuals dumping milk over their heads. § 87(2)(b) who was sober at the time, and his friends asked the individuals if they were okay. One of the individuals grabbed § 87(2)(b) and told him to keep moving, prompting § 87(2)(b) friend, § 87(2)(b) to step in and begin arguing with the male. § 87(2)(b) was trying to separate § 87(2)(b) from the individual when at least four officers joined them.

§ 87(2)(b) stated he was trying to calm § 87(2)(b) down when Police Officer Peralta approached the group and said, “Get the fuck out of here, get the fuck out here, you need to clear this up.” § 87(2)(b) asked Police Officer Peralta why he was cursing, and Police Officer Peralta replied, “Get the fuck out of here.” § 87(2)(b) began to move and Police Officer Peralta said more forcefully, “I said get the fuck out of here. You want me to spray you with mace?”

§ 87(2)(b) stated that once the officers came over, they began pushing everyone. He and his friends were asking, “What’s going on? What’s the problem?” Police Officer Peralta pushed § 87(2)(b) in his chest to get him to move out the way. § 87(2)(b) told Police Officer Peralta, “Don’t push me.” Police Officer Peralta instructed him to, “Get the fuck out the way.”

§ 87(2)(b) stated that she and her friends had been drinking, but not heavily. § 87(2)(b) was trying to grab § 87(2)(b) to get them to leave, but § 87(2)(b) kept going back to argue with the individuals.

Police Officer Peralta stated that he was in the middle of the roadway on West 210th Street directing traffic when he heard a group to his left yelling that they had been pepper sprayed. Police Officer Peralta saw the group trying to remove the pepper spray with milk. A few seconds later, a second group of approximately ten people walked by. One of the individuals in the second group began to argue with the first group. Police Officer Peralta tried to ignore it, but about two minutes later, the argument began to escalate, so he and Police Officer Santiago walked over. Police Officer Peralta stated he and Police Officer Santiago said repeatedly, “Listen guys, you’ve gotta go or you’re going to be arrested.” Police Officer Peralta estimated that he asked the group to leave approximately 20 times. He did not use profanity towards anyone, and did not tell anyone to “keep it fucking moving” or “get the fuck out of here.” He did not hear any of the other officers use profanity towards the individuals. Police Officer Peralta added that there was a large group of people grabbing him, and in response he pushed them off. He could not remember if he pushed any individuals beyond § 87(2)(b) and § 87(2)(b).

Police Officer Santiago stated that he and Police Officer Peralta instructed the individuals in the group to disperse because a large crowd was gathering, causing safety issues. The officers asked at least four times for the individuals to move across the street, but they did not comply. Police Officer Santiago did not believe he used profanity towards the individuals. He could not recall whether Police Officer Peralta did so.

Police Officer Brigganty stated that she was directing traffic when she noticed a fight break out approximately two feet away. She called out to Police Officer Peralta, who was standing diagonal to her, and they went to break the fight up. When Police Officer Brigganty approached, the groups were screaming about somebody’s girlfriend. Police Officer Brigganty instructed

everyone to go home and directed them to “keep moving.” The individuals were upset that they had been pepper sprayed and were non-compliant. Police Officer Brigganty estimated that she and Police Officer Peralta told the group four or five times to leave, but they were noncompliant. Police Officer Brigganty did not hear Police Officer Peralta use profanity towards the individuals.

Police Officer Levy stated that he saw a large, disorderly group and patrol officers telling the group to disperse in an orderly fashion. He could not specifically hear what was being said, but did not hear any profanity used.

Video footage, embedded below, shows a group of males, one of whom is pouring milk on his head. Shortly thereafter, § 87(2)(b) and § 87(2)(b) walk by and begin engaging with the group. § 87(2)(b) and § 87(2)(b) go towards § 87(2)(b) and appear to hold him back. § 87(2)(b) also approaches the group, while his friends hold him back. There is pushing, and it appears that words are being exchanged. At <4:23:00> Police Officer Peralta, Police Officer Santiago, and Police Officer Brigganty approach the group. Police Officer Santiago and Police Officer Brigganty get between the two groups, while Police Officer Peralta stays on the outside and speaks to § 87(2)(b). Police Officer Santiago pulls out his asp and points it at § 87(2)(b) and his friends. The group continues to pull § 87(2)(b) back, as the officers walk towards them. Police Officer Peralta approaches the group and again begins to exchange words with § 87(2)(b). A female grabs § 87(2)(b) and pulls him back to the crosswalk. Police Officer Peralta and the other officers approach the group, who move north on Sherman Avenue off-camera.



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Patrol Guide 203-09 states that when engaging with the public, officers must be courteous and respectful (**Board Review #5**).

§ 87(2)(b), § 87(2)(g)
[Redacted text block]

Patrol Guide 221-02 states that Members of Service may use reasonable force to gain control, compliance, or custody of an uncooperative person (**Board Review #6**).

§ 87(2)(b), § 87(2)(g)
[Redacted text block]

Allegation (D) Abuse of Authority: At West 211th Street and Sherman Avenue in Manhattan, Police Officer Jose Peralta threatened § 87(2)(b) with the use of force.
Allegation (E) Force: At West 211th Street and Sherman Avenue in Manhattan, Police Officer Jose Peralta used physical force against § 87(2)(b)

§ 87(2)(b) stated that Police Officer Peralta approached him and told him he was under arrest. § 87(2)(b) asked what he was being arrested for. Police Officer Peralta replied, “Because I said you’re under arrest,” and continued to walk “aggressively” towards him. § 87(2)(b) who at no point made any physical contact with Police Officer Peralta, thought Police Officer Peralta was trying to grab him and so he ran south on 10th Avenue.

Police Officer Peralta stated he could not remember how long he had been interacting with the group when he stepped to the side, took out his Taser and conducted a spark test. Police Officer Peralta explained that he was concerned § 87(2)(b) was going to fight the other group, and wanted to be prepared to use his Taser if § 87(2)(b) did so. A few seconds after Police Officer Peralta tested his Taser, § 87(2)(b) began yelling and cursing, and asked Police Officer Peralta if he was going to “Tase him.” Police Officer Peralta instructed § 87(2)(b) to disperse. Police Officer Peralta thought § 87(2)(b) was very intoxicated because he smelled like alcohol, and wanted to attack him because he was getting increasingly close and flailing his arms. Police Officer Peralta told § 87(2)(b) to move on before he was arrested for disorderly conduct. § 87(2)(b) s friends tried to pull him away, but § 87(2)(b) pushed them away and walked towards Police Officer Peralta. § 87(2)(b) “squared off” by bringing up his arms and clenching his fists. In response, Police Officer Peralta informed § 87(2)(b) he was under arrest.

As Police Officer Peralta went to arrest § 87(2)(b) came from the right and placed Police Officer Peralta in a bear hug. Police Officer Peralta pushed § 87(2)(b) off him, and approached § 87(2)(b) struck Police Officer Peralta’s left jaw with an open palm. Police Officer Peralta again told § 87(2)(b) he was under arrest. § 87(2)(b) began to back up, and Police Officer Peralta grabbed him. In response, § 87(2)(b) hit Police Officer Peralta in the chest. As this was occurring, § 87(2)(b) came back and grabbed Police Officer Peralta’s jacket. As he struggled to get § 87(2)(b) off, § 87(2)(b) ran off. Police Officer Peralta did not chase § 87(2)(b) but later learned he was apprehended.

TRI #2017-034-000155-2 (**Board Review#7**) submitted by Police Officer Peralta states § 87(2)(b) who was suspected of intoxication, used force in the form of: hand strike, wrestling/grappling, and pushing/shoving against Police Officer Peralta. Police Officer Peralta, while attempting to control subject sustained minor swelling, contusions, and substantial pain. Force used by Police Officer Peralta was listed as wrestling/grappling to apprehend and cuff prisoner in defense of self, defense of other MOS, and to overcome resistance or aggression. § 87(2)(b) had minor swelling, and was offered, but refused medical attention.

Police Officer Santiago stated Police Officer Peralta was trying to grab § 87(2)(b) to place him under arrest, when § 87(2)(b) pushed off from Police Officer Peralta’s vest and ran off.

Arrest Report #§ 87(2)(b) (**Board Review #1**) states that § 87(2)(b) was arrested by Police Officer Santiago for second degree assault and obstruction of governmental administration. Police

Officer Santiago was informed by Police Officer Peralta that while he was dispersing a large crowd, § 87(2)(b) refused to disperse. § 87(2)(b) subsequently squared off, punched and pushed Police Officer Peralta in the chest. § 87(2)(b) attempted to flee the scene and was apprehended by an officer.

Police Officer Levy stated he saw Police Officer Peralta try to arrest § 87(2)(b) pushed Police Officer Peralta in the chest and took a “boxing stance” with his hands in front of his chest. In response, Police Officer Peralta stepped closer to § 87(2)(b) and instructed him to “Come here.”

Video footage, embedded below, shows § 87(2)(b) and Police Officer Peralta exchanging words. When Police Officer Peralta reaches § 87(2)(b) they begin struggling. Though it is difficult to see because of the lack of light, officers begin running towards the fight and a large circle forms. At <04:24:02> § 87(2)(b) and Police Officer Peralta push each other’s chests. § 87(2)(b) then begins to move back from Police Officer Peralta, who begins struggling with § 87(2)(b).



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Patrol Guide 221-02 states that Members of Service may use reasonable force to gain control, compliance, or custody of an uncooperative person (**Board Review #6**).

Police Officer Peralta stated he conducted a Taser spark test only after he asked the group approximately 20 times to disperse, and § 87(2)(b) continued to act aggressively towards the pepper-sprayed individual, in preparation for possibly having to utilize it against § 87(2)(b). Police Officer Peralta asserted that in response to this Taser spark test, § 87(2)(b) approached him and took a fighting stance. After Police Officer Peralta asked § 87(2)(b) to leave, or be placed under arrest, § 87(2)(b) used force against Officer Peralta, who in turn began grappling with him in order to place him in handcuffs. § 87(2)(b) was later arrested for second degree assault and obstruction of governmental administration. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (F) Force: At West 211th Street and Sherman Avenue in Manhattan, Police Officer Jose Peralta used physical force against § 87(2)(b)

Allegation (G) Force: At West 211th Street and Sherman Avenue in Manhattan, Captain John O’Connell used physical force against § 87(2)(b)

§ 87(2)(b) stated that after the officers arrived, the next thing he remembered was getting punched in the face. He fell to the ground on his back, and immediately put his arms in the air. § 87(2)(b) asked, “Why are you hitting me? I didn’t do anything to you.” Officers then grabbed § 87(2)(b) arms, handcuffed him, and took him to the stationhouse.

§ 87(2)(b) medical records from § 87(2)(b), the § 87(2)(b) (Privileged Documents) show a diagnosis of tenderness, mild swelling and mild bruising to the left side of his face. § 87(2)(b) stated he received the injuries after he was assaulted and arrested by officers who struck him in the face and handcuffed him.

§ 87(2)(b) stated that Police Officer Peralta approached § 87(2)(b) and asked him if he wanted to cause problems. § 87(2)(b) said he had not been fighting, and in response, Police Officer Peralta pushed him. § 87(2)(b) asked Police Officer Peralta what he was touching him for, and Police Officer Peralta replied, “Oh, you want to fight?” § 87(2)(b) noted that at no point had § 87(2)(b) tried to fight the officers or make physical contact with them. Four to five officers then “rushed” § 87(2)(b) against a parked van. § 87(2)(b) saw § 87(2)(b) fall on the ground.

§ 87(2)(b) stated § 87(2)(b) was trying to leave when Police Officer Brigganty grabbed him by his right wrist. § 87(2)(b) was standing in front of § 87(2)(b) and when she turned around, § 87(2)(b) was on the ground and being handcuffed.

Police Officer Peralta stated that as he was dealing with § 87(2)(b) kept trying to grab his jacket. Police Officer Peralta and § 87(2)(b) began grappling and Police Officer Peralta instructed § 87(2)(b) to get off of him. As Police Officer Peralta and § 87(2)(b) were holding onto each other, § 87(2)(b) pushed Police Officer Peralta harder and punched him on the left side of his face below his right eye. In response, Police Officer Peralta struck § 87(2)(b) three times in his face with a closed fist. Police Officer Peralta informed § 87(2)(b) he was going to be arrested for obstruction of governmental administration and assault. Police Officer Peralta tried to handcuff § 87(2)(b) but found it difficult because he was so much larger than him. Captain O’Connell came over and grabbed § 87(2)(b). Police Officer Peralta and Captain O’Connell then pushed § 87(2)(b) onto buttocks on the sidewalk and handcuffed him.

The LOD report (**Board Review #9**) prepared for Police Officer Peralta states that while trying to make an arrest, another perpetrator grabbed Police Officer Peralta and tried to strike the left side of his face with a closed fist, causing minor swelling.

TRI #2017-034-000155 (**Board Review #10**) submitted by Police Officer Peralta states § 87(2)(b) who was suspected of intoxication, used force, pushing and shoving, and a hand strike to punch and cause injury to Police Officer Peralta, who sustained minor swelling and substantial pain. Force used by Police Officer Peralta was listed as hand strike and punch in defense of self, defense of other officers, to stop self-inflicted harm, and to overcome resistance or aggression. § 87(2)(b) sustained minor swelling, but refused medical attention.

Police Officer Santiago stated § 87(2)(b) committed obstruction of governmental administration because he tried to grab § 87(2)(b) when the officers were in the process of placing him under arrest. § 87(2)(b) and Police Officer Peralta then grabbed each other. Police Officer Santiago was focused on trying to grab § 87(2)(b) right arm, and did not see § 87(2)(b) or Police Officer Peralta exchange punches. At this time, Captain O’Connell

appeared and pushed § 87(2)(b) back. Police Officer Santiago grabbed § 87(2)(b) as he was brought down by Captain O'Connell and § 87(2)(b) was subsequently handcuffed.

Arrest Report #§ 87(2)(b) (**Board Review #2**) states that § 87(2)(b) was arrested by Police Officer Santiago for assault in the second degree, resisting arrest, and obstruction of governmental administration. Police Officer Santiago was informed by Police Officer Peralta that § 87(2)(b) grabbed Police Officer Peralta to prevent his friend from being arrested for acting disorderly. § 87(2)(b) also punched Police Officer Peralta causing swelling on the left side of his face.

Captain O'Connell stated that he was responding to another fight when he saw Police Officer Peralta attempting to effect an arrest. Captain O'Connell went to assist Police Officer Peralta, and when he got closer, he saw Police Officer Peralta by himself, fighting with two or three males. Police Officer Peralta yelled, "He punched me in the face," and repeatedly said, "Get them off me!" Captain O'Connell pulled § 87(2)(b) and § 87(2)(b) off Police Officer Peralta by their shirts and jackets. § 87(2)(b) ran off and § 87(2)(b) continued to fight Police Officer Peralta. Captain O'Connell pulled § 87(2)(b) by his jacket to the ground, where he was subsequently handcuffed and taken to the van.

Police Officer Brigganty stated she was still trying to clear the group when she saw § 87(2)(b) grab Police Officer Peralta by the collar of his shirt. Police Officer Peralta yelled, "Let go!" She could not remember what occurred thereafter.

Aided #AID-2017-034-001663 (**Board Review # 11**) prepared by Police Officer Brigganty states Police Officer Peralta was hit in the face by a defendant. Police Officer Peralta complained of pain to the left side of his face. He was treated and released on scene.

Sergeant Sofia stated that she had been on scene for about 15 to 20 minutes before she heard a commotion about a block over. Sergeant Sofia turned and saw a group of individuals pushing each other and screaming. Police Officer Peralta was arguing with the group, and Sergeant Sofia saw a hand make impact with Police Officer Peralta's face. Sergeant Sofia ran to assist Police Officer Peralta. When she arrived, she saw Police Officer Peralta and § 87(2)(b) on the ground. Police Officer Peralta was attempting to place § 87(2)(b) in handcuffs. § 87(2)(b) friend was hovering over Police Officer Peralta and screaming at the officers. Sergeant Sofia began conducting crowd control and instructed about 10-15 people to stay back.

Police Officer King stated that after he and Police Officer Levy arrived, he saw individuals fighting with officers. He did not feel safe entering the fight because he did not feel he could protect himself. Additionally, since officers were already responding to the fight, Police Officer King stood back.

Video footage, embedded below, shows § 87(2)(b) stepping between Police Officer Peralta and § 87(2)(b) and attempting to separate the two by placing his hands on Police Officer Peralta's chest. Police Officer Peralta pushes § 87(2)(b) back, and continues to struggle with § 87(2)(b). At <04:24:02>, § 87(2)(b) moves back, as Police Officer Peralta again struggles with § 87(2)(b). § 87(2)(b) is subsequently held back by several uniformed officers. At

<04:24:05>, as Police Officer Peralta approaches § 87(2)(b) Captain John O’Connell, blocks § 87(2)(b) from view. Captain O’Connell then pushes § 87(2)(b) away from the officers, and § 87(2)(b) lands, stumbles and lands on his buttocks on the sidewalk.



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Patrol Guide 221-02 states that Members of Service may use reasonable force to gain control, compliance, or custody of an uncooperative person (**Board Review #6**).

While § 87(2)(b) cannot remember what occurred prior to being punched in the face, video footage shows § 87(2)(b) interfering with the arrest of § 87(2)(b) placing his hands on Police Officer Peralta’s chest, and grappling with the officer. § 87(2)(b), § 87(2)(g)

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Allegation (H) Force: At West 211th Street and 10th Avenue in Manhattan, Police Officer Daniel Martinucci used physical force against § 87(2)(b)

Allegation (I) Force: At West 211th Street and 10th Avenue in Manhattan, Police Officer Giancarlo Alia used pepper spray against § 87(2)(b)

Allegation (J) Physical Force: At West 211th Street and 10th Avenue in Manhattan, Police Officer Giancarlo Alia restricted § 87(2)(b) s breathing.

Allegation (K) Force: At West 211th Street and 10th Avenue in Manhattan, officers used physical force against § 87(2)(b)

§ 87(2)(b) a black Hispanic male, stated he was chased by three plainclothes, and two uniformed officers. After running for one or two blocks, § 87(2)(b) was tackled from behind. He fell, stomach first. The officers placed him face first on the ground and handcuffed him. While § 87(2)(b) was handcuffed, an officer placed their knee behind the right side of § 87(2)(b) s ear and neck. The officers then began to pepper spray him. § 87(2)(b) felt his face burn, and told the officers, “I can’t breathe,” because his face was on the ground and he was being pepper sprayed. A male officer replied, “Yes, you can breathe.”

§ 87(2)(b) stated he did not move his body because there was a knee holding his neck and he was handcuffed in a prone position. He did not try to resist and at no point did he strike any of the officers. § 87(2)(b) felt kicks and punches on his arms, legs, head, and right eye. § 87(2)(b) estimated that the pepper spray and strikes lasted for two to three minutes. An officer then picked § 87(2)(b) up and he was taken to a van.

Upon arriving at the stationhouse, § 87(2)(b) could not see and an officer removed his handcuffs and instructed him to splash water in his eye. § 87(2)(b) was then placed in a holding cell. EMS

came and examined his knee and face, because his right eye was swollen from being punched. § 87(2)(b) was then taken to Central Booking. The next day, he went to § 87(2)(b) Hospital because he had a migraine and his right eye was swollen shut. He was given a prognosis of an orbital contusion. § 87(2)(b) provided photos showing his swollen right eye, a cut to his right cheek, a cut to his knee, and left wrist (**Board Review #s 29-30**).

§ 87(2)(b)'s medical records (**Privileged Document**) shows he was treated by EMS at the stationhouse for bruising to his right eye, which he stated he received from a fight. § 87(2)(b) was subsequently treated at § 87(2)(b), where he stated he was pepper sprayed by police officers, who hit him in his right eye and behind his right ear. § 87(2)(b) was diagnosed with a minor head injury and minor orbital contusion.

Police Officer Martinucci stated that he saw Police Officer Peralta holding onto § 87(2)(b) and trying to place him in handcuffs. § 87(2)(b) pushed off from Police Officer Peralta and took a "fighting stance." Plainclothes officers from the 34th Precinct Anti-Crime team moved in to apprehend § 87(2)(b) and an unknown male Anti-Crime officer took a fighting stance. § 87(2)(b) then took a few steps back and began to flee down Sherman Avenue.

Police Officer Martinucci, Police Officer Peralta, and three or four Anti-Crime officers gave chase. After about 30 seconds, § 87(2)(b) slipped between two cars, lost his footing, fell forward, and landed on his stomach. Police Officer Martinucci was directly behind § 87(2)(b) and was the first officer to reach him. He grabbed both of his shoulders and took him to the ground in the middle of the street. § 87(2)(b) resisted by moving and flailing his arms and body side-to-side. Police Officer Martinucci focused on holding § 87(2)(b) by his back and shoulders. He told him, "Stop resisting, you're under arrest," but § 87(2)(b) refused to comply. Seconds later, the Anti-Crime officers caught up to Police Officer Martinucci and assisted in handcuffing him. He stated there was "a bit of a struggle," but outside of trying to place § 87(2)(b)'s hands behind his back, he did not use any additional force against him. Police Officer Martinucci stated he did not make any contact with § 87(2)(b)'s face, and did not see any Anti-Crime officers use force against § 87(2)(b). Police Officer Martinucci stated neither he nor any of the other officers used pepper spray on § 87(2)(b). After § 87(2)(b) was handcuffed, he was taken to a vehicle. Police Officer Martinucci did not see any visible injuries on § 87(2)(b) though he noted it was dark.

TRI #2017-034-000155-3 (**Board Review #12**) submitted by Police Officer Martinucci states § 87(2)(b) who was suspected of alcohol intoxication, resisted arrest by flailing his arms. Force used by Police Officer Martinucci was listed as forcible takedown of a fleeing suspect in defense of self, in defense of other MOS, and to overcome resistance or aggression. § 87(2)(b) sustained minor swelling and was offered medical attention, but refused.

Police Officer Alia stated that after being pepper sprayed, he did not take any police action. He noted that he wore contact lenses, and even after the EMTs placed drops in his eyes, he was unable to regain his vision because of the pepper spray on his contacts. Police Officer Alia reviewed his TRI, but stated that it did not refresh his memory. While he remembered being pepper sprayed by security, he could not remember if he took out his pepper spray at any point, or if he interacted with a black Hispanic male. Police Officer Alia stated that while he completed the

TRI, he did not remember writing it. Police Officer Alia did not recall chasing anyone down who was fleeing from the police, or pepper spray anyone in their face. He did not recall hearing any civilians saying they could not breathe. Police Officer Alia stated that a Medical Treatment of Prisoner form was completed for pepper sprayed civilians who had been arrested. Police Officer Alia did not complete a Medical Treatment of Prisoner form, and to his knowledge, no one he interacted with was arrested.

TRI #2017-034-000154 (**Board Review #13**) submitted by Police Officer Alia states in front of 3964 10th Avenue in Manhattan, Police Officer Alia used pepper spray against an unknown black Hispanic male who used force and resisted, in defense of self, members of public, and other MOS. The civilian did not sustain any injury and medical attention was not offered to the subject.

Police Officer Levy stated as he, and other officers, but he could not remember who, began walking towards Police Officer Peralta, § 87(2)(b) began running southbound on Sherman Avenue and Police officer Levy ran after him. § 87(2)(b) weaved between parked cars and went into the roadway. There was a big truck that was double-parked, and as § 87(2)(b) went to maneuver around it, he fell head-first on the ground. At this point, Police Officer Levy was about 30 feet away on the sidewalk and saw Police Officer Martinucci apprehend § 87(2)(b). He did not see § 87(2)(b)'s face after he fell, and did not know if he had any visible injuries. Police Officer Levy went into the roadway, and saw at least three or four uniformed officers with Police Officer Martinucci. He did not see any of the officers strike § 87(2)(b) or use pepper spray on him. When Police Officer Levy saw that § 87(2)(b) had been apprehended, he turned and went back northbound towards another fight occurring about 100 feet away. Police Officer Levy noted that once he turned, he could no longer see what was happening with Police Officer Martinucci and § 87(2)(b).

Sergeant Sofia stated that at some point, she saw § 87(2)(b) running away, with officers following behind him. She believed that the officers following § 87(2)(b) were patrol, not Anti-Crime. She later saw § 87(2)(b) after he was handcuffed and being placed in a RMP. She did not know how he was apprehended or see any visible injuries.

Sergeant Mukhtarzada stated that while speaking to § 87(2)(b) in the holding cells, § 87(2)(b) stated he had a lump on his head. A TRI was prepared for § 87(2)(b) and Sergeant Mukhtarzada called EMS.

Police Officer Diaz resigned from the NYPD during the course of the investigation and could not be interviewed.

Video footage, embedded below, shows that as § 87(2)(b) moves away from Police Officer Peralta, who is occupied by § 87(2)(b) two officers approach him. At <04:24:06>, an officer appears to lift his arm, make a hook motion, and punch § 87(2)(b) in the face. § 87(2)(b)'s head moves back. Immediately after, § 87(2)(b) runs up Sherman Avenue and is chased by three plainclothes and two uniformed officers. They run off-screen.



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Patrol Guide Section 221-01 states that Members of Service may use force to overcome resistance while effecting an arrest, but may only use the reasonable amount of force necessary to gain control or custody of a subject. They may not use a chokehold, which may include any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air (**Board Review #14**).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated that after being placed in handcuffs, an officer pepper sprayed him in his face. Though § 87(2)(b) was subsequently arrested, despite numerous IAB requests, a Medical Treatment of Prisoner form, prepared on his behalf, could not be found. While being treated by EMS, § 87(2)(b) did not report that he was pepper sprayed, only that he had bruising to his right eye. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) claimed that after being handcuffed, officers whom he could not see struck him on his face, arms, and legs. Medical records and photos (**Board Review #s 29-30**) corroborate § 87(2)(b)'s assertion that he suffered an orbital contusion, as well as cuts to his face and knees. Police Officer Martinucci admitted that while there was “a bit of a struggle” to place § 87(2)(b) in handcuffs, he did not strike § 87(2)(b) in the face, and only used force to place his hands behind his back. § 87(2)(b), § 87(2)(g)

Allegation (L) Force: At West 211th Street and Sherman Avenue, officers used physical force against § 87(2)(b)

Allegation (M) Discourtesy: At West 211th Street and 10th Avenue in Manhattan, officers spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that as he was trying to grab § 87(2)(b) from the ground when plainclothes officers pushed him and said, “Get the fuck back.”

Video footage, embedded below, shows a bald, white male officer wearing a uniform pushing § 87(2)(b) back from the crowd and shoving him by his chest onto the sidewalk. The officer puts one hand on § 87(2)(b)'s chest, and holds his left fist up, as he continues to push § 87(2)(b) on the sidewalk.



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§ 87(2)(b), § 87(2)(g)

Allegation (N) Discourtesy: At the 34th Precinct stationhouse, Sergeant Hekmatulla Mukhtarzada spoke discourteously to § 87(2)(b)

Allegation (O) Abuse of Authority: At the 34th Precinct stationhouse, Sergeant Hekmatulla Mukhtarzada threatened to get § 87(2)(b) fired.

It is undisputed that at the time of his arrest, § 87(2)(b) worked as a bus driver for the MTA, and at some point informed officers that he was a NYC employee.

§ 87(2)(b) stated that while in a holding call, Police Officer Santiago informed him that his sergeant wanted to speak to him. Shortly thereafter, Sergeant Mukhtarzada approached § 87(2)(b) and said, “I will make sure you never work for the fucking MTA again.”

Sergeant Mukhtarzada stated that after returning to the stationhouse, he spoke to Police Officer Peralta about what happened. At some point he learned that § 87(2)(b) worked for the § 87(2)(b) and instructed Police Officer Peralta to make a notification to Operations, which was required when any City employee was arrested. Sergeant Mukhtarzada then went and spoke to § 87(2)(b) and § 87(2)(b) in the holding cells. While speaking to § 87(2)(b) Sergeant Mukhtarzada asked him what he did, and he confirmed that he was a bus driver for the § 87(2)(b). Sergeant Mukhtarzada replied, “And this is how you treat an officer?” § 87(2)(b) stated, “I didn’t do anything.” Sergeant Mukhtarzada felt that § 87(2)(b) was “playing like nothing happened,” and replied, “All right.” At no point did he tell § 87(2)(b) “I will make sure you never work for the fucking § 87(2)(b) again.”

Police Officer Santiago stated he saw Sergeant Mukhtarzada enter the holding cells, but could not recall if Sergeant Mukhtarzada spoke to § 87(2)(b) or said anything about getting him fired from his job.

Patrol Guide 203-09 states that when engaging with the public, officers must be courteous and respectful (**Board Review #5**).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (P) Discourtesy: At the 34th Precinct stationhouse, Police Officer Jose Peralta spoke discourteously to § 87(2)(b)

Allegation (Q) Discourtesy: At the 34th Precinct stationhouse, Police Officer Jose Peralta spoke discourteously to § 87(2)(b)

Allegation (R) Abuse of Authority: At the 34th Precinct stationhouse, Police Officer Jose Peralta threatened to arrest § 87(2)(b)

Allegation (S) Abuse of Authority: At the 34th Precinct stationhouse, Police Officer Jose Peralta threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that he, § 87(2)(b) and three or four of § 87(2)(b) other friends went to the stationhouse and told the desk sergeant they were looking for § 87(2)(b). Shortly thereafter, Police Officer Peralta came out and said, “Yo, ya’ll get the fuck out of here. You wanna get arrested too? You wanna get locked up?” § 87(2)(b) asked to speak to a sergeant. Another officer came out and instructed him to leave. Police Officer Peralta repeated, “Get the fuck out of here before you get arrested.”

§ 87(2)(b) stated that after arriving at the stationhouse, an officer told them, “Get your ass out of here. We’ll lock you up too.”

Police Officer Peralta stated he returned to the stationhouse to prepare his reports and get examined by EMS. Police Officer Peralta could not remember if he went to the stationhouse front desk, but did recall seeing two of § 87(2)(b) friends, who had come to retrieve him. Police Officer Peralta believed he spoke to one of the friends, but at no point did he tell the individuals to leave or else they would be arrested. He did not tell anyone to “get the fuck” out of the stationhouse.

Police Officer Santiago stated he saw two or three individuals show up at the stationhouse to inquire about § 87(2)(b). Police Officer Santiago noted he did not speak directly with the individuals because he was busy dealing with the prisoners in the cells. He could not recall if Police Officer Peralta spoke to them.

Police Officer Brigganty saw Police Officer Peralta at the stationhouse, but did not see him speak to anyone at the front desk.

Patrol Guide 203-09 states that when engaging with the public, officers must be courteous and respectful (**Board Review #5**).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g), § 87(4-b)

[REDACTED]

Civilian and Officer CCRB Histories

- Police Officer Peralta has been a member-of-service for 19 years and has been a subject in seven CCRB complaints and thirteen allegations, none of which were substantiated.
§ 87(2)(g) [REDACTED]
- Captain O’Connell has been a member-of-service for 13 years and has been a subject in one CCRB complaint with one allegation, which was not substantiated. § 87(2)(g) [REDACTED]
- Police Officer Martinucci has been a member-of-service for five years and this is the first CCRB complaint to which he has been a subject.
- Sergeant Mukhtarzada has been a member-of-service for eight years and has been a subject in four CCRB complaints and six allegations, which were not substantiated. He has one additional CCRB case currently under investigation. § 87(2)(g) [REDACTED]
- Sergeant Sofia has been a member-of-service for twelve years and has been a subject in two CCRB complaints and four allegations, of which one was substantiated:
 - Case 201708879 involved a substantiated allegation for a stop. The Board recommended Command Discipline B and the NYPD has not yet imposed discipline.
 - § 87(2)(g) [REDACTED]
- Police Officer Kane has been a member-of-service for nine years and has been a subject in three CCRB complaints and ten allegations, of which two were substantiated:
 - Case 201704971 involved a substantiated allegation for a frisk. The Board recommended Command Discipline A and the NYPD has not yet imposed discipline.
 - Case 201708879 involved a substantiated allegation for a stop. The Board recommended Command Discipline B and the NYPD has not yet imposed discipline.

- § 87(2)(g) [REDACTED]
- Police Officer McCormack has been a member-of-service for five years and has been a subject in two CCRB complaints and two allegations, which were not substantiated.
§ 87(2)(g) [REDACTED]
- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] have been a party (**Board Review #s 20, 21, 22, and 23**).

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

Squad No.: 2

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date